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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

_____	)	Chapter 11
In re:	)	
	)	
LEHMAN BROTHERS INC.,	)	08-01420 (JMP) SIPA
	)	
Debtor.	)	

**OBJECTION TO TRUSTEE'S DETERMINATION OF CLAIM**

1. On or about January 23, 2009, Pennsylvania Public School Employees' Retirement System ("PSERS") filed claim number 94113952 against Lehman Brothers Inc. ("LBI") relating to payments for foreign currency transactions.
2. The liquidating trustee filed an objection notice on September 16, 2009 denying PSERS's claim.
3. PSERS and LBSF entered into a foreign exchange transaction that involved an exchange between Japanese Yen and U.S. dollars that was established on June 13, 2008 and had a value date of September 16, 2008 ("First Exchange Transaction"). Under the terms of the agreement, PSERS was to pay 58,606,411 Japanese Yen to LBSF and would receive \$545,000 from LBSF.

4. PSERS and LBSF then entered into a second foreign exchange transaction that also involved an exchange between Japanese Yen and U.S. dollars that was established on July 24, 2008 and had a value date of September 16, 2008 ("Second Exchange Transaction"). Under the terms of the agreement, PSERS was to pay 27,400,260 Japanese Yen to LBSF and would receive \$255,000 from LBSF.

5. According to the wire instructions provided by "Lehman Brothers" ("Lehman Wire Instructions"), payments to LBSF in Japanese Yen for foreign exchange transactions were to be made to LBI by or on behalf of LBSF. Specifically, counterparties were instructed to send the funds to LBI's Nostro Account at Citibank, Tokyo. Attached as Exhibit A are the Lehman Wire Instructions which are entitled "Foreign Exchange Standard Settlement Instructions for Lehman Brothers Special Finance Inc. (SLHIUS3S) effective February 14, 2007."

6. In accordance with the Lehman Wire Instructions, on September 16, 2008, the sending bank for the custodian for PSERS, The Bank of Tokyo Mitsubishi UFJ Ltd, Tokyo, wired to LBI 58,606,411 Japanese Yen for the First Exchange Transaction (wire number TKYU21678) and 27,400,260 Japanese Yen for the Second Exchange Transaction (wire number TKYU21680) to LBI's account at Citibank, Tokyo. Attached as Exhibit B are trade tickets from the order system of Logan Circle Partners, L.P., an investment adviser to PSERS, showing the details of the wire transfers from PSERS to LBI.

7. However, PSERS did not receive the \$800,000 it was owed under the two foreign exchange transactions. Upon information and belief, LBI is still in possession of the \$800,000 that PSERS wired for the foreign currency transactions. LBI will be unjustly enriched at the expense of PSERS if it does not pay the \$800,000 it owes to PSERS. *See Compudyne Corp. v. Shane*, 453 F. Supp. 2d 807, 833 (S.D.N.Y. 2006) (noting that counterparties to securities

transactions have an unjust enrichment claim for funds transferred for a securities transaction that was never effected). Alternatively, as PSERS transferred the \$800,000 in reliance of a promise by a fiduciary, its securities broker, and LBI would be unjustly enriched by keeping the \$800,000, PSERS is entitled to a constructive trust on funds transferred to LBI. *See U.S. v. Lesak*, No. 07-0396, 2009 WL 1788411, slip op. (S.D.N.Y. June 23, 2009) (holding customer was entitled to a constructive trust against a third party on funds transferred to a broker-dealer for a securities purchase that was not effected).

8. Therefore, as PSERS transferred \$800,000 to LBI for the foreign exchange transactions described above in accordance with Lehman's settlement instructions and PSERS did not receive funds it was promised for the transactions, LBI owes PSERS \$800,000.

Dated: New York, New York  
October 15, 2009

DUANE MORRIS LLP

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